IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 23489 of 2004

Between:

D. Suryanarayana, S/o Chinna Subba Rao,
Dommeru PACS Limited, West Godavari.

..... PETITIONER

AND

1 The Registrar, District Cooperative Office,
West Godavari District, Eluru.
2 Dommeru PACS Limited, Dommeru, West Godavari District.
3 The Chairperson, Dommeru PACS, Dommeru, Kovvur Mandal, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or a direction more particularly in the nature of Writ of mandamus directing the respondents to pay the salary of the petitioner as drawn by the petitioner which is within the statutory parameters and consequently declare the action respondents 2 and 3 is illegal, arbitrary, contrary to law and contrary to the provisions under the Cooperative Societies Act, and violative of Article 14 and 21 of the Constitution of India, much less discriminative in nature, in the interest of justice and pass such other order or orders

Counsel for the Petitioner:MR.M.V.RAJA RAM

Counsel for the Respondents: GP FOR COOPERATION

The Court at the admission stage made the following :

The Hon’ble Sri Justice

K.C. Bhanu

W.P. No. 23489 of 2004

O R D E R:

The writ petition is filed for a direction to the respondents to pay the salary of the petitioner as drawn by the petitioner.

The case of the petitioner is that he was transferred as Secretary to the 2nd respondent-Society vide proceedings of the 1st respondent dated 24.4.2003 and at that time he was drawing a basic salary of Rs.9,447-30ps. The Society gets 2% of the working capital i.e. Rs. and 30% of the gross income i.e. Rs.2,80,357-07ps. The 3rd respondent had started discriminating him in respect of payment of salary from April, 2003. Hence the writ petition.

A detailed counter affidavit has been filed stating that the managing committee of the 2nd respondent-Society which met on 1.10.2002 discussed the financial position of the Society and proposed to reduce the salary of the petitioner as per his eligibility. At the time of petitioner joining the 2nd respondent-Society the Managing Committee has resolved vide resolution dated 3.5.2003 fixing the salary of the petitioner at Rs.7,000/- and the petitioner agreed to the said salary and he has received the same till the month of June, 2004 and it is the petitioner who rejected to take the salary of Rs.7000/- and demanded the Society to pay Rs.9,447-30ps. and that without approval of the Registrar the salary of the petitioner cannot be

enhanced.

Learned counsel for the petitioner contended that the Society is getting more profits and for extraneous reasons the 3rd respondent is reluctant to pay his salary from April 2003 onwards and the working capital of the Society is Rs.2,09.156-68ps. and 30% of the gross income is Rs.2,80,357-07ps. and hence he prays to allow the writ petition.

On the other hand, learned counsel for the respondents contended that as per the resolution of the managing committee the petitioner accepted the fixed salary of Rs.7000/- and having received the salary for about one year at the same rate and having agreed for the same, the petitioner cannot now turnaround and say that he is entitled to more salary than which he was getting earlier and therefore there are no grounds to allow the writ petition.

As per the resolution of the 2nd respondent-Society dated 3.5.2003, the salary of the petitioner was fixed at Rs.7,000/-. As a matter of fact, the petitioner received the salary at Rs.7,000/- per month from May 2003 to June 2004. The said resolution is not under challenge. But, in the reply affidavit the petitioner stated that the General Body passed the resolution wherein it agreed to pay his salary as per the last pay certificate w.e.f. 1.7.2004. The said resolution is not placed before this court.

There cannot be any dispute that under Section 116-C of the A.P. Cooperative Societies Act 1964, the managing committee of the Society has power to fix the staffing pattern, pay-scale and other allowances of its employees with the prior approval of the

Registrar of the Cooperative Societies subject to the condition that the expenditure towards pay and allowances shall not exceed 2% of the working capital or 30% of the gross profits, whichever is less. It is stated by the respondents that there is no approved staffing pattern and pay-scales of the employees of the 2nd respondent-Society and as such the petitioner has no claim for any pay-scales without approval of the Registrar. When the salary of the petitioner was fixed by the resolution of the managing committee vide resolution dated 3.5.2003 and the petitioner worked and received the salary at the same rate for about 15 months, now he cannot turnaround and say that he is entitled for the salary as per his last pay certificate. Since the resolution passed by the 2nd respondent dated 3.5.2003 fixing the salary is not under challenge and the managing committee has power to fix the staffing pattern and pay-scales as per Section 116-C of the A.P. Cooperative Societies Act, the petitioner cannot claim any amount other than the amount fixed by the 2nd respondent-Society. There is no approved staffing pattern and pay-scales of the employees in the 2nd respondent-society by the Registrar. So, unless and until the staffing pattern and pay-scales of the employees of the 2nd respondent-Society are approved by the Registrar, the petitioner cannot have any right to claim enhanced pay-scales.

Therefore, the writ petition is devoid of merit and it is dismissed accordingly. No costs.

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K.C. Bhanu, J.

Date: --04—2005.

MVB.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Registrar, District Cooperative Office,
West Godavari District, Eluru.
2 Dommeru PACS Limited, Dommeru, West Godavari District.
3 The Chairperson, Dommeru PACS, Dommeru, Kovvur Mandal, West Godavari District.

4. Two C.Cs. to G.P. for Cooperation, High Court Buildings, Hyderabad (OUT).

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